IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

Crl.MC.No. 2324 of 2007()

CC.327/2007 of JUDL.MAGISTRATE OF FIRST CLASS COURT, PAYYANNUR

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PETITIONER: ACCUSED NO.9

GIREESH, S/O.P.KANNAN,
ANNUR P.O., PAYYANUR, KANNUR DISTRICT.

BY ADV. SRI.M.SASINDRAN
SRI.K.P.HARISH

RESPONDENTS: COMPLAINANT

STATE- REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 19/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 2324 of 2007

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Dated this the 19th day of July, 2007

O R D E R

The petitioner, along with the co-accused, faces indictment in a prosecution for offences punishable, inter alia, under Section 448 r/w. 149 I.P.C. The petitioner was not available for trial. All offences are bailable. The case against the petitioner was split up and the case against the co-accused proceeded. All co-accused, except A6, were found not guilty and acquitted. The petitioner was not available in India at the time of the said trial. The petitioner has now come back to India.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. According to him his absence was not wilful. He is willing to appear before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions may be issued to release the petitioner on bail on the date of surrender itself.

3. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner when he surrenders before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. The learned counsel for the petitioner submits that the petitioner has only a short period of leave to his credit and will have to return to his place of employment. It is prayed that there may be a direction for

expeditious disposal of the case. The petitioner can make an application to that effect before the learned Magistrate. The learned Magistrate must consider such request and pass appropriate orders.

6. Hand over the order.

(R. BASANT)
Judge

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